

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**BTG INTERNATIONAL INC.,  
Plaintiff,**

**VS.**

**APPLE INC., ASUS COMPUTER INTERNATIONAL, INC., ASUSTEK COMPUTER INC., DELL INC., LENOVO GROUP LTD., LENOVO (UNITED STATES) INC., PNY TECHNOLOGIES, INC., SONY CORPORATION, SONY ELECTRONICS, INC., and TRANSCEND INFORMATION, INC.**

## Defendants.

**CIVIL ACTION NO. 2:09-CV-223**

## JURY TRIAL

## ORIGINAL COMPLAINT

Plaintiff BTG International Inc., (“BTG”) files this Original Complaint for infringement of U.S. Patent No. 5,394,362 (“the ’362 Patent”), U.S. Patent No. 5,764,571 (“the ’571 Patent”), U.S. Patent No. 5,872,735 (“the ’735 Patent”), U.S. Patent No. 6,104,640 (“the ’640 Patent”), and U.S. Patent No. 6,188,692 (“the ’962 Patent”) (collectively, “the Patents-in-Suit”) under 35 U.S.C. § 271 against Defendant Apple Inc. (“Apple”), Defendant ASUS Computer International, Inc. (“ASUS”), Defendant ASUSTek Computer Inc. (“ASUSTek”), Defendant Dell Inc. (“Dell”), Defendant Lenovo Group Ltd. (“Lenovo”), Defendant Lenovo (United States) Inc. (“Lenovo U.S.”), Defendant PNY Technologies, Inc. (“PNY”), Defendant Sony Corporation (“Sony”), Defendant Sony Electronics, Inc. (“Sony Elecs.”), and Defendant Transcend Information, Inc. (“Transcend”) (collectively, “each Defendant” or “the Defendants”). Copies of the Patents-in-Suit are attached as Exhibits A–E.

## **PARTIES**

1. Plaintiff BTG is a corporation existing under the laws of the state of Delaware and has its headquarters at Five Tower Bridge, 300 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2998.

2. On information and belief, Apple is, and at all relevant times mentioned herein was, a corporation organized and existing under the laws of the State of California, with its principal place of business at 1 Infinite Loop, Cupertino, CA 95014. Apple manufactures consumer electronic products containing Multi-Level Cell (“MLC”) flash memory chips, including but not limited to, MLC NAND flash memory chips manufactured by Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., Samsung Semiconductor, Inc., and/or Samsung Austin Semiconductor, LLC (collectively “Samsung”), imports such products into the United States, and sells and/or offers for sale its products containing such memory chips through out the United States and, more particularly, in the Eastern District of Texas. Apple may be served with process by serving its registered agent, CT Corporation System at 350 N. St. Paul Street, Dallas, Texas 75201.

3. On information and belief, ASUS is a California Corporation with its principal place of business at 44370 Nobel Drive, Fremont, California 94538. On information and belief, ASUSTek is a Taiwanese Corporation with its principal place of business at 150 Li-Te Rd., Peitou, Taipei, 112, Taiwan R.O.C. On information and belief, ASUSTek is a subsidiary of ASUS (hereinafter collectively referred to as “ASUS”). ASUS manufactures consumer electronic products containing MLC flash memory chips, including but not limited to, MLC NAND flash memory chips manufactured by Samsung, imports such products into the United States, and sells and/or offers for sale its products containing such memory chips through out the United States and, more particularly, in the Eastern District of Texas. ASUS may be served

with process by serving its registered agent, Godwin Yan, at 800 Corporate Way, Fremont, California 94539.

4. On information and belief, Dell is a Delaware Corporation with its principal place of business at 1 Dell Way, Round Rock, Texas 78682-2222. Dell manufactures consumer electronic products containing MLC flash memory chips, including but not limited to, MLC NAND flash memory chips manufactured by Samsung, imports such products into the United States, and sells and/or offers for sale its products containing such memory chips through out the United States and, more particularly, in the Eastern District of Texas. Dell may be served with process by serving its registered agent, Corporation Service Company at 701 Brazos Street, Suite 1050, Austin, Texas 78701.

5. On information and belief, Lenovo is a Hong Kong Corporation with its principal place of business at 1009 Think Place, Bldg. 500, Box 29, Morrisville, NC 27560. On information and belief, Lenovo U.S. is a Delaware Corporation with its principal place of business at 1009 Think Place, Bldg. 500, Box 29, Morrisville, NC 27560. On information and belief, Lenovo and Lenovo U.S. (hereinafter collectively referred to as "Lenovo") are commonly owned by the same corporate entity and are alter egos and/or agents of one another. Lenovo manufactures consumer electronic products containing MLC flash memory chips, including but not limited to, MLC NAND flash memory chips manufactured by Samsung, imports such products into the United States, and sells and/or offers for sale its products containing such memory chips through out the United States and, more particularly, in the Eastern District of Texas. Lenovo may be served with process by serving its registered agent, CT Corporation System at 350 N. St. Paul Street, Dallas, Texas 75201.

6. On information and belief, PNY is a Delaware corporation with its principal place of business at 299 Webro Road, Parsippany, New Jersey 07054. PNY manufactures consumer

electronic products containing MLC flash memory chips, including but not limited to, MLC NAND flash memory chips manufactured by Samsung, imports such products into the United States, and sells and/or offers for sale its products containing such memory chips through out the United States and, more particularly, in the Eastern District of Texas. PNY may be served with process by serving its registered agent, The Corporation Trust Company, Corporation Trust Center 1209 Orange Street, Wilmington, Delaware 19801.

7. On information and belief, Sony is a Japanese Corporation with its principal place of business at 7-35 Kitashinagawa 6-Chome Shinagawa-KU, Tokyo. On information and belief, Sony Elecs. is a Delaware Corporation with its principal place of business at 16450 W. Bernardo Dr., San Diego, CA 92127. On information and belief, Sony and Sony Elecs. (hereinafter collectively referred to as “Sony”) are commonly owned by the same corporate entity and are alter egos and/or agents of one another. Sony manufactures consumer electronic products containing MLC flash memory chips, including but not limited to, MLC NAND flash memory chips manufactured by Samsung, imports such products into the United States, and sells and/or offers for sale its products containing such memory chips through out the United States and, more particularly, in the Eastern District of Texas. Sony may be served with process by serving its registered agent, Corporation Service Company at 701 Brazos Street, Suite 1050, Austin, Texas 78701.

8. On information and belief, Transcend is a Taiwanese Corporation with its principal place of business at No. 70, Xing Zhong Road, NeiHu Dist., Taipei, Taiwan R.O.C. Transcend manufactures consumer electronic products containing MLC flash memory chips, including but not limited to, MLC NAND flash memory chips manufactured by Samsung, imports such products into the United States, and sells and/or offers for sale its products containing such memory chips through out the United States and, more particularly, in the Eastern District of

Texas. Transcend may be served with process by serving its registered agent, Chung-Won Shu, 1645 N. Brian Street, Orange, California 92667.

### **JURISDICTION AND VENUE**

9. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code § 1, *et seq.* This Court has exclusive subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

10. This Court has personal jurisdiction over each Defendant. Each Defendant has conducted and does conduct business within the State of Texas. Each Defendant, directly or through intermediaries (including distributors, retailers, and others), ships, distributes, offers for sale, sells, and advertises (including the provision of an interactive web page) its products in the United States, the State of Texas, and the Eastern District of Texas. Each Defendant has purposefully and voluntarily placed one or more of its infringing products, as described herein, into the stream of commerce with the expectation that they will be purchased by consumers in the Eastern District of Texas. These infringing products have been and continue to be purchased by consumers in the Eastern District of Texas. Each Defendant has committed the tort of patent infringement within the State of Texas and, more particularly, within the Eastern District of Texas.

11. Venue is proper in the Eastern District of Texas under 28 U.S.C. §§ 1391(b)–(c) and 1400(b).

### **COUNT 1: INFRINGEMENT OF U.S. PATENT NO. 5,394,362**

12. BTG refers to and incorporates herein the allegations of Paragraphs 1–12 above.

13. United States Patent No. 5,394,362 (“the ’362 Patent”), entitled “Electronically Alterable Non-Volatile Memory With N-Bits Per Memory Cell,” was duly and legally issued by the United States Patent and Trademark Office on February 28, 1995 after full and fair

examination. BTG is the assignee of all rights, title, and interest in and to the '362 Patent and possesses all rights of recovery under the '362 Patent.

14. On information and belief, Apple, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, the iPhone 1Gen 8GB phone, the iPod Shuffle 3Gen 4GB MP3 player, iPod Touch 2Gen 16GB MP3 player, and the MacBook Air Notebook Computer, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '362 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

15. On information and belief, ASUS, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, the EEE Netbook Computer with a Solid State Drive ("SSD"), has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '362 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

16. On information and belief, Dell, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, the Dell D630 Laptop Computer with a Samsung 128GB SSD Model No. MMDOE28G5MPP-OVAD1, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '362 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

17. On information and belief, Lenovo, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, the X301 ThinkPad Laptop Computer with a Samsung 128GB SSD Model No. MMCQE28MUP-OVAL1, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '362 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

18. On information and belief, PNY, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, 1GB SD flash memory card and the Attaché 8GB USB drive, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '362 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

19. On information and belief, Sony, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, 1GB Memory Stick Pro Duo flash card, the 8GB Memory Stick flash card, the Cyber-Shot DSC-T2 digital camera, the E Series 8GB MP3 player, the Sony Microvault 4GB USB drive, and the Vaio VGN-TT190 Laptop Computer with a Samsung 128GB SSD Model No. MMCQE28GFMUP-MVA, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '362 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

20. On information and belief, Transcend, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products

containing MLC flash memory devices, including, but not limited to, the Transcend 2.5" SSD and the Transcend 8GB SDHC memory card, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '362 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

21. The Defendants are also infringing one or more claims of the '692 Patent under 35 U.S.C. § 271(f) by supplying or causing to be supplied in or from the United States all or a substantial portion of the components of the patented invention, where such components are uncombined in whole or in part, in such manner as to actively induce the combination of such components outside the United States in a manner that would infringe the '362 Patent if such combination occurred within the United States.

22. BTG has at all times complied with 35 U.S.C. § 287.

23. The Defendants have knowledge of the '362 Patent, and have not ceased their infringing activities. The Defendants' infringement of the '362 Patent has been and continues to be willful and deliberate.

24. BTG has been irreparably harmed by the Defendants' acts of infringement of the '362 Patent, and will continue to be harmed unless and until the Defendants' acts of infringement are enjoined and restrained by order of this Court.

25. As a result of the Defendants' acts of infringement, BTG has suffered and will continue to suffer damages in an amount to be proved at trial.

**COUNT 2: INFRINGEMENT OF U.S. PATENT NO. 5,764,571**

26. BTG refers to and incorporates herein the allegations of Paragraphs 1–27 above.

27. United States Patent No. 5,764,571 ("the '571 Patent"), entitled "Electrically Alterable Non-Volatile Memory with N-Bits Per Cell," was duly and legally issued by the



United States Patent and Trademark Office on June 9, 1998, after full and fair examination. BTG is the assignee of all rights, title, and interest in and to the '571 Patent and possesses all rights of recovery under the '571 Patent.

28. On information and belief, Apple, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, the iPhone 1Gen 8GB phone, the iPod Shuffle 3Gen 4GB MP3 player, iPod Touch 2Gen 16GB MP3 player, and the MacBook Air Notebook Computer, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '571 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

29. On information and belief, ASUS, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, the EEE Netbook Computer with an SSD, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '571 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

30. On information and belief, Dell, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, the Dell D630 Laptop Computer with a Samsung 128GB SSD Model No. MMDOE28G5MPP-OVAD1, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '571 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

31. On information and belief, Lenovo, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, the X301 ThinkPad Laptop Computer with a Samsung 128GB SSD Model No. MMCQE28MUP-OVAL1, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '571 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

32. On information and belief, PNY, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, 1GB SD flash memory card and the Attaché 8GB USB drive, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '571 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

33. On information and belief, Sony, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, 1GB Memory Stick Pro Duo flash card, the 8GB Memory Stick flash card, the Cyber-Shot DSC-T2 digital camera, the E Series 8GB MP3 player, the Sony Microvault 4GB USB drive, and the Vaio VGN-TT190 Laptop Computer with a Samsung 128GB SSD Model No. MMCQE28GFMUP-MVA, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '571 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

34. On information and belief, Transcend, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products

containing MLC flash memory devices, including, but not limited to, the Transcend 2.5" SSD and the Transcend 8GB SDHC memory card, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '571 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

35. The Defendants are also infringing one or more claims of the '571 Patent under 35 U.S.C. § 271(f) by supplying or causing to be supplied in or from the United States all or a substantial portion of the components of the patented invention, where such components are uncombined in whole or in part, in such manner as to actively induce the combination of such components outside the United States in a manner that would infringe the '571 Patent if such combination occurred within the United States.

36. BTG has at all times complied with 35 U.S.C. § 287.

37. The Defendants have knowledge of the '571 Patent, and have not ceased their infringing activities. The Defendants' infringement of the '571 Patent has been and continues to be willful and deliberate.

38. BTG has been irreparably harmed by the Defendants' acts of infringement of the '571 Patent, and will continue to be harmed unless and until Defendants' acts of infringement are enjoined and restrained by order of this Court.

39. As a result of the Defendants' acts of infringement, BTG has suffered and will continue to suffer damages in an amount to be proved at trial.

**COUNT 3: INFRINGEMENT OF U.S. PATENT NO. 5,872,735**

40. BTG refers to and incorporates herein the allegations of Paragraphs 1–42 above.

41. United States Patent No. 5,872,735 ("the '735 Patent"), entitled "Electrically Alterable Non-Volatile Memory with N-Bits Per Cell," was duly and legally issued by the

United States Patent and Trademark Office on February 16, 1999 after full and fair examination. BTG is the assignee of all rights, title, and interest in and to the '735 Patent and possesses all rights of recovery under the '735 Patent.

42. On information and belief, Apple, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, the iPhone 1Gen 8GB phone, the iPod Shuffle 3Gen 4GB MP3 player, iPod Touch 2Gen 16GB MP3 player, and the MacBook Air Notebook Computer, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '735 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

43. On information and belief, ASUS, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, the EEE Netbook Computer with an SSD, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '735 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

44. On information and belief, Dell, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, the Dell D630 Laptop Computer with a Samsung 128GB SSD Model No. MMDOE28G5MPP-OVAD1, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '735 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

45. On information and belief, Lenovo, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, the X301 ThinkPad Laptop Computer with a Samsung 128GB SSD Model No. MMCQE28MUP-OVAL1, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '735 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

46. On information and belief, PNY, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, 1GB SD flash memory card and the Attaché 8GB USB drive, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '735 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

47. On information and belief, Sony, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, 1GB Memory Stick Pro Duo flash card, the 8GB Memory Stick flash card, the Cyber-Shot DSC-T2 digital camera, the E Series 8GB MP3 player, the Sony Microvault 4GB USB drive, and the Vaio VGN-TT190 Laptop Computer with a Samsung 128GB SSD Model No. MMCQE28GFMUP-MVA, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '735 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

48. On information and belief, Transcend, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products

containing MLC flash memory devices, including, but not limited to, the Transcend 2.5" SSD and the Transcend 8GB SDHC memory card, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '735 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

49. The Defendants are also infringing one or more claims of the '735 Patent under 35 U.S.C. § 271(f) by supplying or causing to be supplied in or from the United States all or a substantial portion of the components of the patented invention, where such components are uncombined in whole or in part, in such manner as to actively induce the combination of such components outside the United States in a manner that would infringe the '735 Patent if such combination occurred within the United States.

50. BTG has at all times complied with 35 U.S.C. § 287.

51. The Defendants have knowledge of the '735 Patent, and have not ceased their infringing activities. The Defendants' infringement of the '735 Patent has been and continues to be willful and deliberate.

52. BTG has been irreparably harmed by the Defendants' acts of infringement of the '735 Patent, and will continue to be harmed unless and until the Defendants' acts of infringement are enjoined and restrained by order of this Court.

53. As a result of the Defendants' acts of infringement, BTG has suffered and will continue to suffer damages in an amount to be proved at trial.

**COUNT 4: INFRINGEMENT OF U.S. PATENT NO. 6,104,640**

54. BTG refers to and incorporates herein the allegations of Paragraphs 1–57 above.

55. United States Patent No. 6,104,640 ("the '640 Patent"), entitled "Electrically Alterable Non-Volatile Memory with N-Bits Per Cell," was duly and legally issued by the

United States Patent and Trademark Office on August 15, 2000 after full and fair examination. BTG is the assignee of all rights, title, and interest in and to the '640 Patent and possesses all rights of recovery under the '640 Patent.

56. On information and belief, Apple, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, the iPhone 1Gen 8GB phone, the iPod Shuffle 3Gen 4GB MP3 player, iPod Touch 2Gen 16GB MP3 player, and the MacBook Air Notebook Computer, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '640 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

57. On information and belief, ASUS, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, the EEE Netbook Computer with an SSD, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '640 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

58. On information and belief, Dell, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, the Dell D630 Laptop Computer with a Samsung 128GB SSD Model No. MMDOE28G5MPP-OVAD1, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '640 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

59. On information and belief, Lenovo, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, the X301 ThinkPad Laptop Computer with a Samsung 128GB SSD Model No. MMCQE28MUP-OVAL1, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '640 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

60. On information and belief, PNY, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, 1GB SD flash memory card and the Attaché 8GB USB drive, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '640 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

61. On information and belief, Sony, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, 1GB Memory Stick Pro Duo flash card, the 8GB Memory Stick flash card, the Cyber-Shot DSC-T2 digital camera, the E Series 8GB MP3 player, the Sony Microvault 4GB USB drive, and the Vaio VGN-TT190 Laptop Computer with a Samsung 128GB SSD Model No. MMCQE28GFMUP-MVA, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '640 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

62. On information and belief, Transcend, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products



containing MLC flash memory devices, including, but not limited to, the Transcend 2.5" SSD and the Transcend 8GB SDHC memory card, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '640 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

63. The Defendants are also infringing one or more claims of the '640 Patent under 35 U.S.C. § 271(f) by supplying or causing to be supplied in or from the United States all or a substantial portion of the components of the patented invention, where such components are uncombined in whole or in part, in such manner as to actively induce the combination of such components outside the United States in a manner that would infringe the '640 Patent if such combination occurred within the United States.

64. BTG has at all times complied with 35 U.S.C. § 287.

65. The Defendants have knowledge of the '640 Patent, and have not ceased their infringing activities. The Defendants' infringement of the '640 Patent has been and continues to be willful and deliberate.

66. BTG has been irreparably harmed by the Defendants' acts of infringement of the '640 Patent, and will continue to be harmed unless and until the Defendants' acts of infringement are enjoined and restrained by order of this Court.

67. As a result of the Defendants' acts of infringement, BTG has suffered and will continue to suffer damages in an amount to be proved at trial.

**COUNT 5: INFRINGEMENT OF U.S. PATENT NO. 6,118,692**

68. BTG refers to and incorporates herein the allegations of Paragraphs 1–72 above.

69. United States Patent No. 6,118,692 (“the '692 Patent”), entitled “Memory Apparatus Including Programmable Non-Volatile Multi-Bit Memory Cell, and Apparatus and

Method for Demarcating Memory States of the Cell,” was duly and legally issued by the United States Patent and Trademark Office on September 12, 2000 after full and fair examination. BTG is the assignee of all rights, title, and interest in and to the ’692 Patent and possesses all rights of recovery under the ’692 Patent.

70. On information and belief, Apple, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, the iPhone 1Gen 8GB phone, the iPod Shuffle 3Gen 4GB MP3 player, iPod Touch 2Gen 16GB MP3 player, and the MacBook Air Notebook Computer, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the ’692 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

71. On information and belief, ASUS, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, the EEE Netbook Computer with an SSD, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the ’692 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

72. On information and belief, Dell, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, the Dell D630 Laptop Computer with a Samsung 128GB SSD Model No. MMDOE28G5MPP-OVAD1, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the ’692 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

73. On information and belief, Lenovo, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, the X301 ThinkPad Laptop Computer with a Samsung 128GB SSD Model No. MMCQE28MUP-OVAL1, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '692 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

74. On information and belief, PNY, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, 1GB SD flash memory card and the Attaché 8GB USB drive, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '692 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

75. On information and belief, Sony, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products containing MLC flash memory devices, including, but not limited to, 1GB Memory Stick Pro Duo flash card, the 8GB Memory Stick flash card, the Cyber-Shot DSC-T2 digital camera, the E Series 8GB MP3 player, the Sony Microvault 4GB USB drive, and the Vaio VGN-TT190 Laptop Computer with a Samsung 128GB SSD Model No. MMCQE28GFMUP-MVA, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '692 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

76. On information and belief, Transcend, by making, using, selling, offering to sell, and/or importing in or into the United States, without authority, consumer electronics products

containing MLC flash memory devices, including, but not limited to, the Transcend 2.5" SSD and the Transcend 8GB SDHC memory card, has infringed, contributorily infringed, and/or induced infringement of, and is continuing to infringe, contributorily infringe, and/or induce infringement of, one or more claims of the '692 Patent under one or more of 35 U.S.C. § 271(a), (b), and (c).

77. The Defendants are also infringing one or more claims of the '692 Patent under 35 U.S.C. § 271(f) by supplying or causing to be supplied in or from the United States all or a substantial portion of the components of the patented invention, where such components are uncombined in whole or in part, in such manner as to actively induce the combination of such components outside the United States in a manner that would infringe the '692 Patent if such combination occurred within the United States.

78. BTG has at all times complied with 35 U.S.C. § 287.

79. The Defendants have knowledge of the '692 Patent, and have not ceased their infringing activities. The Defendants' infringement of the '692 Patent has been and continues to be willful and deliberate.

80. BTG has been irreparably harmed by the Defendants' acts of infringement of the '692 Patent, and will continue to be harmed unless and until the Defendants' acts of infringement are enjoined and restrained by order of this Court.

81. As a result of the Defendants' acts of infringement, BTG has suffered and will continue to suffer damages in an amount to be proved at trial.

#### **PRAYER FOR RELIEF**

BTG prays for the following relief:

A. A judgment that each Defendant has infringed and is continuing to infringe the Patents-in-Suit directly and/or indirectly by way of inducing or contributing to infringement of the Patents-in-Suit, as alleged herein;

B. A judgment and order requiring each Defendant to pay BTG damages under 35 U.S.C. § 284, including treble damages for willful infringement as provided by 35 U.S.C. § 284, and supplemental damages for any continuing post-verdict infringement up until entry of the final Judgment with an accounting as needed;

C. A judgment and order requiring each Defendant to pay BTG pre-judgment and post-judgment interest on the damages awarded;

D. A judgment and order finding this to be an exceptional case and requiring each Defendant to pay the costs of this action (including all disbursements) and attorneys' fees as provided by 35 U.S.C. § 285;

E. A judgment and order that each Defendants, its agents, employees, representatives, successors and assigns, and those acting in privity or in concert with it, is permanently enjoined from further infringement of the Patents-in-Suit; and

F. Such other and further relief as the Court deems just and equitable.

**DEMAND FOR JURY TRIAL**

BTG hereby demands that all issues be determined by jury.

DATED: July 20, 2009

Respectfully submitted,

/s/ Mike McKool, Jr.

Mike McKool, Jr.

Attorney-in-Charge

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